

CHAPTER 5.0

COMMENTS AND RESPONSES

5.1 INTRODUCTION

A total of 10 comment letters and 1 verbal response were received from various agencies and organizations concerning the Draft Mitigated Negative Declaration / Expanded Initial Study (MND) for Pacific Gas and Electric Company (PG&E) Applications 00-05-029 and 00-05-030. Application 00-05-030 involves the market valuation and exchange of certain PG&E-owned lands in Shasta County for equivalently valued lands owned by the California Department of Parks and Recreation (DPR). The application (A00-05-030) also addressed PG&E's proposal to subsequently transfer the land received from the DPR to a non-profit entity known as the California Waterfowl Association (CWA).

PG&E filed Application 00-05-029 with the CPUC to market value and transfer certain property to the CWA. The property consists of land in Shasta County commonly referred to as McArthur Swamp, the Glenburn Dredge Site, and a dredge used to maintain certain levees associated with those properties. The transaction includes a Conservation Easement and management plan including terms designed to maintain existing land uses, enhance habitats, and preserve cultural and historical resources.

5.2 LIST OF COMMENT LETTERS RECEIVED

The comment letters received on the Draft MND have been grouped by agency (federal, state, regional, and local), organizations, and members of the public. Each comment letter has been assigned a corresponding alphabet letter designation. Comment letters A through D were submitted from state agencies; Comment D was received via voice-mail and has been included to ensure the integrity of the public record. Comment letters E through K were submitted from numerous public and private organizations. The commenting agency or organization letters are listed below. **Table 5-1** provides more detailed information regarding the letters author and date received.

STATE AGENCIES

- A. California Department of Fish and Game
- B. State Water Resources Control Board
- C. California Department of Transportation
- D. California Department of Parks and Recreation

PUBLIC AND PRIVATE ORGANIZATIONS

- E. Pacific Gas and Electric Company
- F. California Waterfowl Association
- G. California Waterfowl Association
- H. McArthur Resource Management Association
- I. Fall River Big Valley Cattleman Association
- J. California Indian Legal Services (Pit River Tribe)
- K. Fall River Valley Chamber of Commerce

**TABLE 5-1
LIST OF COMMENTORS**

Letter	Individual or Signatory	Affiliation	Date
<i>Public Agencies</i>			
A	Donald B. Koch	California Department of Fish and Game	November 16, 2001
B	Jim Canaday	State Water Resources Control Board	November 28, 2001
C	Marcelino Gonzalez	California Department of Transportation	November 26, 2001
D	Michael Gross	Cascade Sector Superintendent California Department of Parks and Recreation	Voice mail comment, Nov. 30, 2001
<i>Public and Private Organizations</i>			
E	Paul V. Holton	Pacific Gas and Electric Company	November 29, 2001
F	M. Robert McLandress	California Waterfowl Association	November 28, 2001
G	Raymond E. Lewis	California Waterfowl Association	November 14, 2001
H	D. J. Martin	McArthur Resource Management Association, Inc.	November 28, 2001
I	Craig McArthur	Fall River-Big Valley Cattleman Association	November 29, 2001
J	Michael P. Acosta	California Indian Legal Services CC: Pit River Tribe	December 10, 2001
K	D. J. Martin	Fall River Valley Chamber of Commerce	November 29, 2001

5.3 RESPONSES TO COMMENTS

This section contains responses to all of the substantive comments received on the Draft MND during the extended 30-day review period. Each comment letter was assigned a letter according to the system identified previously (i.e. A, B, etc.). Each comment addressed within each letter was assigned a number (i.e. A-1, A-2, etc). Responses are provided to each written comment number within the letter. Where a response to a similar comment has been provided in another response, the reader is referred to the previous response.

All changes to the MND are described in the response and referred by the page number on which the original text appears in the MND. Added text in underlined; deleted text is ~~stricken~~.

LETTER A



State of California - The Resources Agency
DEPARTMENT OF FISH AND GAME
<http://www.dfg.ca.gov>
601 Locust Street
Redding, California 96001
(530) 225-2300

GRAY DAVIS, Governor



November 16, 2001

Ms. Billie C. Blanchard
California Public Utilities Commission
c/o Environmental Science Associates
700 University Avenue, Suite 130
Sacramento, California 95825

Dear Ms. Blanchard:

**Pacific Gas and Electric's (PG&E) Shasta County Land Transfers (Project)
California Public Utility Commission (CPUC)
Application Nos. 00-05-029 and 00-05-030,
Draft Mitigated Negative Declaration (Document), Shasta County**

The Department of Fish and Game has reviewed the subject Document. The proposed Project responds to the CPUC's request that PG&E voluntarily divest ownership of some of its generating capacity and seeks to donate or exchange 15,137 acres of land in Shasta County. Application No. 00-05-029 proposes to market value and donate lands known as the "McArthur Swamp" and the "Glenburn Dredge Site" as well as the dredge known as "Frances" to the California Waterfowl Association. Application No. 00-05-030 proposes to market value and transfer PG&E owned lands known as "Burney Falls" and the "Bowman Ditch" to the California Department of Parks and Recreation in exchange for what is known as the "Ahjumawi Property." In conjunction with these land transfers, PG&E would request that the relevant lands be removed from the Federal Energy Regulatory Commission license boundaries for the Pit 1 (No. 2687) and Pit 3, 4, and 5 (No. 233) hydroelectric projects.

The Department concurs with the CPUC's determination that the Project as conditioned would have less than significant impact to fish and wildlife resources. As noted on page 1-4, the conservation easement is an essential component of the Project designed to ensure continued responsible stewardship of natural resources. The Department is a member of the technical review team which would be advising and assisting the California Wetlands Foundation in enforcing the conservation easement if the Project is implemented.

The McArthur Swamp Management Plan prescribes roles, objectives, and future management actions for the 7,400-acre McArthur Swamp. Specified actions include stabilization of levees, improvement of wildlife habitat, and improved grazing and vegetation management activities. The Department concurs that the donation of the

Ms. Billie C. Blanchard
November 16, 2001
Page Two

McArthur Swamp and Glenburn Dredge Site would benefit waterfowl, diversify wetland habitat, and enhance recreational opportunities. Potential short-term impacts associated with levee repair and maintenance as well as other earth moving activities will be mitigated to less than significant levels with implementation of the proposed measures.

The exchange of Burney Falls and Bowman Ditch for the Ahjumawi Property will not have a negative impact on natural resources. In fact, anticipated biological and water quality benefits of the exchange include: (1) allowing for wetland vegetation to establish in the Bowman Ditch and (2) continuation of the policy of not repairing the failed Ahjumawi levee system. The failure of the levee system in 1997 flooded much of the 544 acres of the Ahjumawi Property proposed for transfer and now provides an opportunity for the land to return to a natural, wetland habitat condition.

A-1

In summary, the Department concurs that the Project as conditioned will not have significant negative impacts on fish and wildlife resources. We commend all parties involved in designing the multiple Project mitigation measures directed at protecting and enhancing the natural resources of Shasta County. If you have any questions regarding these comments, please contact Environmental Scientist Annie Manji at (530) 225-3846.

Sincerely,


DONALD B. KOCH
Regional Manager

cc: See page three

Ms. Billie C. Blanchard
November 16, 2001
Page Three

cc: Mr. David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C., 20426
(eight copies)

Mr. John Mudre
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Mr. Gary Taylor, Branch Chief
Energy and Power
Sacramento Field Office
U.S. Fish and Wildlife Service
3310 El Camino Avenue, Suite 130
Sacramento, California 95825

Mr. Jim Canaday
State Water Resources Control Board
Post Office Box 2000
Sacramento, California 95812-2000

Mr. Dennis Heiman
Central Valley Regional Water Quality
Control Board
415 Knollcrest Drive, Suite 100
Redding, California 96002

Mr. Michael Gross, District Superintendent
California Department of Parks
and Recreation
Post Office Box 2430
Shasta, California 96087-2430

Mr. Jim Holeman, Project Manager
Pacific Gas and Electric Company
Mail Code N11D
Post Office Box 770000
San Francisco, California 94177-7700

Mr. Bill Quinn
California Waterfowl Association
300 Knollcrest Drive
Redding, California 96002

Messrs. Dave Patterson and Bill Gaines
California Waterfowl Association
4630 Northgate Boulevard, Suite 150
Sacramento, California 95834

Mr. Larry Ferraro
University of California
Cooperative Extension
1851 Hartnell Avenue
Redding, California 96002

Mr. George McArthur
Fall River and Big Valley
Cattlemen's Association
Post Office Box 159
McArthur, California 96056-0159

Mr. Craig McArthur
Fall River and Big Valley
Cattlemen's Association
Post Office Box 66
McArthur, California 96056-0066

Ms. Debbie Lakey
Fall River Valley Chamber of Commerce
Post Office Box 475
Fall River Mills, California 96028-0475

Mr. J. Dale Dennis, President
Fall River Wild Trout Foundation
39863 McArthur Road
Fall River Mills, California 96028

Ms. Billie C. Blanchard
November 16, 2001
Page Four

cc: Mr. Mike Fitzwater
Fall River Wild Trout Foundation
2230 Third Avenue
Sacramento, California 95818

Mr. Jim Guldaman, Manager
Fall River Community Services District
Fall River Mills, California 96028

Mr. Dick Galland
California Trout
Post Office Box 90
Cassel, California 96016-0090

Mr. Michael Bowen
California Trout
870 Market Street, Suite 859
San Francisco, California 94102

Mr. Kevin Lewis
Shasta Paddlers
2540 Hartnell Avenue
Redding, California 96002

Mr. Douglas C. Haisch
Shasta Paddlers
4261 Story Lane
Anderson, California 96007

Mr. Felix Arteaga
Lands and Facilities Branch
Department of Fish and Game
1416 Ninth Street, 12th Floor
Sacramento, California 95814

Messrs. Stephen Turek, Mark Stopher,
Dave O. Smith, and Tim Burton and Ms. Ann Manji
California Department of Fish and Game
601 Locust Street
Redding, California 96001

LETTER A. DONALD B. KOCH – CALIFORNIA DEPARTMENT OF FISH AND GAME

Response A-1

The staff of the CPUC acknowledges the California Department of Fish and Game's (CDFG) overall support for the proposed project and concurrence with the proposed environmental determination under the California Environmental Quality Act (CEQA).



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights

1001 J Street, 14th Floor • Sacramento, California 95814 • (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.swrcb.ca.gov>



Gray Davis
Governor

November 28, 2001

Ms. Billie C. Blanchard
California Public Utilities Commission
Energy Division
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102-3298

STATE WATER RESOURCES CONTROL BOARD COMMENTS ON THE NEGATIVE
DECLARATION REGARDING THE DIVESTITURE OF PACIFIC GAS & ELECTRIC
LANDS IN SHASTA COUNTY (APPLICATION NO. 00-05-029 AND 00-05-030)
SCH# 2001102138

Thank you for the opportunity for the State Water Resources Control Board staff (SWRCB) to review and comment on the Negative Declaration (ND) prepared by the California Public Utility Commission (CPUC). The ND addresses the applications by Pacific Gas & Electric (PG&E) to divest and transfer certain lands in Shasta County to the California Department of Parks and Recreation and the California Waterfowl Association (CWA).

SWRCB staff concurs with the CPUC's determination that the Projects as described and conditioned in ND will have less than a significant impact to water quality and aquatic resources. We believe that the proposed conservation easement is an important element of the McArthur Swamp Management Plan. The CWA should consult with the Central Valley Regional Water Quality Control Board regarding the type of permits that may be required as a result of the proposed actions in the McArthur Swamp Management Plan. SWRCB staff believes that the divestitures/transfers are in the public interest and should be approved.

B-1

SWRCB staff appreciates work conducted by the CPUC in their review of the applications and commends PG&E for the opportunity to protect and enhance public resources and recreation. If you have any questions, I may be reached by calling (916) 341-5308.

Sincerely,

Jim Canaday
Senior Environmental Scientist

California Environmental Protection Agency

"The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of energy conservation tips, see the Website at <http://www.swrcb.ca.gov>."

LETTER B. JIM CANADAY – STATE WATER RESOURCES CONTROL BOARD

Response B-1

The staff of the CPUC acknowledges the State Water Resources Control Board's overall support for the proposed project and concurrence with the proposed environmental determination under the California Environmental Quality Act (CEQA).

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF TRANSPORTATION

P.O. BOX 498073
REDDING, CA 96048-8073
PHONE (530) 225-3369
FAX (530) 225-3020

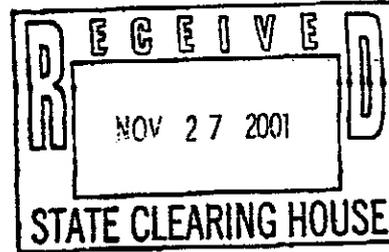


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IGR/CEQA Review
Sha-89-27.54
PG&E Land Transfers
Mitigated Negative Declaration
SCH# 2001102138

November 26, 2001

Billie C. Blanchard
California Public Utilities Commission
c/o Environmental Science Assoc.
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102-3298



Dear Billie C. Blanchard:

Caltrans District 2 has completed review of the Mitigated Negative Declaration submitted on behalf of Pacific Gas and Electric, for land transfers within Shasta County. The project is located in the northeast area of Shasta County near Burney Falls/Lake Britton, McArthur Swamp and Ahjumawi State Park .

Based on the project information submitted, approval of this project will not adversely impact facilities under our jurisdiction; therefore, we have no comment.

C-1

Thank you for providing us the opportunity to review this project. If you have any questions, or if the scope of this project changes, please call me at 225-3369.

Sincerely,

MARCELINO GONZALEZ
Local Development Review
District 2

**LETTER C. MARCELINO GONZALEZ – CALIFORNIA DEPARTMENT OF
TRANSPORTATION**

Response C-1

The staff of the CPUC acknowledges the California Department of Transportation's (Caltrans District 2) concurrence with the proposed environmental determination under the California Environmental Quality Act (CEQA).

LETTER D

Email Received from Elisa Echeverria of Public Affairs Management to John Forsythe of ESA on November 30, 2001, with the following comment.

Michael Gross called from California State Parks, he is the Superintendent of the Cascade Sector. He pointed out a typo on page 1-5 of the document. The document reads "approximately 15,137 acres comprising the McArthur Burney Memorial State Park," Mr. Gross says that it should say "910 acres comprising the McArthur Burney Memorial State Park." His number is (530) 225-2065.

LETTER D. MICHAEL GROSS – CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

Response D-1

Thank you for providing a clarification on the above referenced public review document. The staff of the California Public Utilities Commission (CPUC) recognizes this correction and provides the following modification to the document:

Page 1-5 currently reads: “approximately 15,137 acres comprising the McArthur Burney Memorial State Park.” This sentence will be modified to read as follows: “approximately 910 acres comprising the McArthur Burney Memorial State Park.”

Please note, this error was typographical in nature and does not affect the analysis or conclusions of the draft MND. Page 1-5 of the MND has been modified to reflect the correct acreage.

LETTER E



*Pacific Gas and
Electric Company*

77 Beale Street
P.O. Box 770000
San Francisco, CA 94177

415.973.7000

November 29, 2001

Billie C. Blanchard, CPUC
c/o Environmental Science Associates
700 University Avenue, Suite 130
Sacramento, CA 95825

Re: McArthur/Burney Draft Mitigated Negative Declaration Review

Dear Billie:

Thank you for the opportunity to review the Draft Mitigated Negative Declaration dated October 30, 2001, related to Pacific Gas and Electric Company's Shasta County Land Transfers (McArthur/Burney). We have two comments:

1. Page IV-7 contains the following sentence: "The Transfer prevents the repair of existing failed levee system resulting in the habitat." This is an incomplete sentence and we suggest it either be deleted, or else modified to read as follows: "The terms of the transfer deed restrict the repair of the existing failed levee system." E-1
2. Page IV-9 contains the following sentence: "Materials placed in the water for levee repair or improvement would be less favorable for Shasta crayfish habitat (i.e., lava cobble), avoiding the creation of substrate habitat unsuitable to Shasta crayfish than imported materials, and thus minimize continued degradation of Shasta crayfish habitat near their existing populations or their habitat." The word "less" should be deleted from the above sentence. E-2

If you have any questions regarding the above comments, please call me at 415/972-5708.

Thank you,

Paul V. Holton

LETTER E. PAUL V. HOLTEN – PACIFIC GAS AND ELECTRIC COMPANY

After careful consideration of comments received from PG&E, CPUC staff have provided the following corrections to the document according to the responses received.

Response E-1

Page IV-7 contains the sentence “The Transfer prevents the repair of existing failed levee system resulting in the habitat.” This sentence will be modified to read as follows: “The terms of the transfer deed would restrict the repair of the existing failed levee system.”

Response E-2

The word “ less” will be removed from the following sentence contained on Page IV-9:
“Materials placed in the water for levee repair or improvement would be ~~less~~ favorable for Shasta crayfish habitat (i.e., lava cobble), avoiding the creation of substrate habitat unsuitable to Shasta crayfish than imported materials, and thus minimize continued degradation of Shasta crayfish habitat near their existing populations or heir habitat.”

Please note, this error was typographical in nature and does not affect the analysis or conclusions of the draft MND. Pages IV-7 and IV-9 of the MND have been modified to reflect the above-mentioned comments.

LETTER F



Conserving California's waterfowl, wetlands, and waterfowling heritage.

November 28, 2001

Billie C. Blanchard
CPUC
c/o Environmental Science Associates
700 University Ave., Suite 130
Sacramento, CA 95825

Subject: Proposed transfer and donation of certain lands under CPUC Applications A00-05-029 and A00-05-030

Dear Mr. Blanchard:

The California Waterfowl Association (CWA) a 501 (c) (3) non-profit organization, strongly supports the proposed transfer to CWA of certain lands currently owned by Pacific Gas and Electric Co. (PG&E) located in Shasta County known as the McArthur Swamp and Glenburn Dredge Site. It is our understanding that the California Wetlands Foundation (CWF), a wetland conservation organization closely associated with the California Waterfowl Association will receive from PG&E ownership of a Conservation Easement covering the same McArthur Swamp and Glenburn Dredge Sites. Transfer of the land to CWA will include certain land entitlements, permits, riparian water rights, and a management and monitoring plan. Language in the Conservation Easement transferred to CWF will control and limit land use and management of the subject property.

Transfer of the above described Conservation Easement to CWF will insure the enhancement and permanent protection of wildlife habitat values and unrestricted public access traditionally associated with the McArthur Swamp. In addition, summer livestock forage will remain available to help sustain local livestock operations and the local economy. CWA and the McArthur Swamp Resource Management Association will seek grants and contracts to improve the amount and quality of wildlife habitat and livestock forage on McArthur Swamp.

F-1

CWA agrees to enforce the terms and conditions of the Conservation Easement and McArthur Swamp Management Plan.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "M. Robert McLandress".

M. Robert McLandress
President



**California
Waterfowl
Association**

4630 Northgate Blvd.
Suite 150
Sacramento, CA 95834

TEL: (916) 648-1406
FAX: (916) 648-1665

LETTER F. M. ROBERT McLANDRESS – CALIFORNIA WATERFOWL ASSOCIATION

Response F-1

The staff of the CPUC acknowledges your overall support for the proposed project and agreement to the terms and conditions of the proposed Conservation Easement and McArthur Swamp Management Plan.

LETTER G



Conserving California's waterfowl, wetlands, and waterfowling heritage.

November 14, 2001

Billie C. Blanchard, CPUC
C/o Environmental Science Associates
700 University Ave., Suite 130
Sacramento, CA 95825

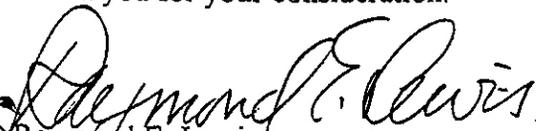
Subject: Proposed transfer and donation of a certain lands under CPUC Applications
A00-05-029 and A00-05-030

The California Wetland Foundation (CWF), a 501 (c) (3) non – profit organization, strongly supports the proposed transfer to CWF of certain lands currently owned by the Pacific Gas and Electric Co. (PG&E) located in Shasta County known as the McArthur Swamp and Glenburn Dredge Site. CWF is closely associated with the California Waterfowl Association (CWA) who will receive from PG&E fee title to the same McArthur Swamp and Glenburn Dredge Sites. Transfer of the land to CWA will include certain land entitlements, permits, riparian water rights, a Conservation Easement, and a management and monitoring plan. Language in the Conservation Easement transferred to CWF will control and limit land use and management of the subject property. At the present time we understand ownership and control of the Conservation Easement will be Transferred to CWF.

Transfer of the above described Conservation Easement to CWF will insure the enhancement and permanent protection of wildlife habitat values and unrestricted public access traditionally associated with the McArthur Swamp. In addition, summer livestock forage will remain available to help sustain local livestock operations and the local economy. CWA and the McArthur Swamp Resource Management Association will seek grants and contracts to improve the amount and quality of wildlife habitat and livestock forage on McArthur Swamp.

CWF agrees to enforce the terms and conditions of the Conservation Easement and McArthur Swamp Management Plan.

Thank you for your consideration.



Raymond E. Lewis
Chairman

**California
Waterfowl
Association**

4630 Northgate Blvd.
Suite 150
Sacramento, CA 95834

TEL: (916) 648-1406
FAX: (916) 648-1665
www.calwaterfowl.org

G-1

**LETTER G. RAYMOND E. LEWIS – CALIFORNIA WATERFOWL
ASSOCIATION**

Response G-1

The staff of the CPUC acknowledges your organization's overall support for the proposed project and agreement to the terms and conditions of the proposed Conservation Easement and McArthur Swamp Management Plan.

LETTER H

McARTHUR RESOURCE MANAGEMENT ASSOCIATION, INC.

42750 Old Bickel Place
Fall River Mills, CA. 96028
Phone: (530) 336-5245 FAX: (530) 336-6556

November 28, 2001

Billie Blanchard, CPUC
c/o Environmental Science Associates
700 University Avenue, Suite 130
Sacramento, California 95825

Re: Response to P.G.E.'s Shasta County Land Transfers, Draft Mitigated Negative Declaration

Dear Billie:

The McArthur Resource Management Association, Inc. (MRMA), of which I am the Secretary, is presenting this response to the Draft Mitigated Negative Declaration (DMND).

Air Quality

We disagree with the finding that the project would have potential significant air quality consequences unless mitigation is incorporated. This assumption is based on the finding that "actions subsequent to the transfer of lands would involve excavation and grading activities." The management plan, developed in coordination with P.G.&E. and applicable state and federal agencies at considerable expense of time and energy, outlines the future uses of the property. These do not call for significant construction activity. It is highly unlikely that activity would differ from present levels. This, after all, is approximately 6,000 acres of grasslands dedicated to wildlife and livestock grazing with buildings prohibited! Construction would be limited to required levee repairs, road grading, and wildlife enhancement.

H-1

We further object to the mitigation proposed for the Air Quality section of the document. These types of restrictions cover a broad spectrum and could be interpreted very strictly in the future. These measures would be impossible for our small company, as owners, to implement. The MRMA will be restricted to a limited budget that is already overloaded with required expenditures. We feel the currently applicable regulations are adequate to ensure air quality. The proposed mitigation measures are not economically possible under projected income levels.

Cultural Resources

We object to the finding of a potentially significant impact on the cultural resources. Again, we point out that the future operation of the property will be little different than the past operation. Keeping the property in pasture for livestock and wildlife will not have a negative effect on cultural resources. As the DMND points out, much of the property was previously underwater and the remainder has been grazed for 100 years.

H-2

The mitigation proposed for this issue is so restrictive that it is not possible to even allow public or private access at the current level. These restrictions have not been observed by P.G.&E. or even by the California Department of Parks at their adjacent State Park. To enforce rules more restrictive than those for the Parks is unacceptable.

Billie Blanchard, CPUC
c/o Environmental Science Associates
November 28, 2001
Page Two

Dredge Access

The entire land transfer hinges on several key points. One of these is the demand by the California Department of Fish and Game for a public access on the dredge parking site on the lower river. The opening of this access is contingent upon the trade of privately-owned property at the access site for the P.G.&E. property. The placement of the conservation easement on this property will render it valueless and, consequently, eliminate the possibility of acquiring the access.

This 4-acre site represents less than .0006% of the total land transfer. Its value as a cultural resource is insignificant in terms of the total transfer and the total cultural resources in the immediate area, i.e., Ahjumawi Lava Springs State Park. To reiterate, the placing of the conservation easement and mitigation measures on this portion of the land transfer will eliminate the opportunity for public access at the dredge site.

H-3

The Declaration discusses the issue of public access to the Ahjumawi State Park through the Rat Farm access. If current negotiations by the State to acquire Lava Creek Lodge and, therefore, deeded access to the Park are successful, then access at the Rat Farm will no longer be necessary. The MRMA proposes that public park access through the swamp lands be contingent on there being no other access available to the Park. In other words, if the Park has land access, it does not need the Rat Farm access. This could significantly reduce traffic on the unsurfaced road and, therefore, the effect on air quality.

Summary

In summary, we feel the DMND is erroneous in finding significant impact on the air quality and cultural resources.

We feel the mitigation measures proposed are both economically and physically impossible to implement, particularly for a company formed for public benefit.

The current local and federal laws are adequate to protect the air quality and cultural resources.

H-4

The inclusion of the "dredge" site in the conservation easement will prevent the public access in that area.

Overall, the DMND has overlooked the fact that the land transfer will have a net positive effect on the environment. The protection of wildlife, enhancement of habitat, and declaration of open space will outweigh any negative effects of dust. Cultural resources will continue to be protected under existing law. Somewhere there has to be someone with encompassing judgment and not the restricted views of special interests.

Very truly yours,


D. J. MARTIN
Secretary

DJM:llh

LETTER H. D. J. MARTIN – MCARTHUR RESOURCE MANAGEMENT ASSOCIATION, INC.***Response H-1***

The CPUC staff acknowledges that the McArthur Resource Management Association, Inc. (MRMA) disagrees with the finding in Impact III.1, stated on page III-3 of the draft MND. It is the opinion of the MRMA that the proposed project, including the implementation of the McArthur Swamp Management Plan (MSMP), would not involve significant construction activity requiring mitigation and that the mitigation prescribed in the draft MND is not economically feasible. Page III-2 of the draft MND states that the project site is located within the Northern Sacramento Air Quality Planning Area, currently classified as a moderate non-attainment area for state ozone and PM-10 standards. As such, the Shasta County Air Pollution Control District (SCAPCD) has certain rules that apply to all projects involving ground disturbance, including Rule 3.16 on fugitive, indirect or non-traditional sources, and Rule 3.15, which imposes restrictions on use of cutback and emulsified paving materials.

The staff of the CPUC understand that actions pursuant to the implementation of the MSMP, such as the re-contouring the Hollenbeck Field, and wetland and pond creation subsequent to the transfer of lands would involve some level of excavation and grading, which would result in emissions of NOx, ROG, CO and PM-10 from construction equipment. While it is acknowledged that these construction activities are fairly minor in nature, they would temporarily affect pollutant concentrations in the project area primarily due to fugitive dust sources generated from earthmoving activities and vehicle travel over unpaved surfaces or paved surfaces heavily laden with earthen materials. As indicated on page III-3 of the draft MND, soils within the McArthur Swamp land base tend to have a high silt content and are more inherently prone to generating large quantities of dust. In the absence of mitigation measures, there may be circumstances when project construction activities (as rare as they may be) would have a significant impact on the environment through the generation of significant quantities of dust, thereby adversely affecting local visibility and increasing local PM-10 concentrations on a temporary and intermittent basis. By law, mitigation to offset these effects is required by the SCAPCD for ground disturbing activities, as specified below.

A grading permit is required by the Shasta County Environmental Health Department if a project would involve any of the following: (1) moving more than 250 cubic yards of dirt or (2) grading an area more than 10,000 sq. ft. or (3) creating temporary roads, building pads, construction staging areas, etc. (Patty Watega, Environmental Health Technician II, Shasta County Environmental Health Department. Telephone Conversation, December 21, 2001.). Mitigation Measure III.1 was prescribed in the draft MND to ensure compliance with this rule, assuming that one or more of these activities would trigger the need for a grading permit. Should the activities conducted pursuant to the MSMP be postponed, eliminated, or not fall under specified thresholds, the specified mitigation would not be required.

Response H-2

As stated in this comment, the CPUC acknowledges that the continued grazing of livestock in the project area would have little or no effect on both discovered and undiscovered cultural resources. However, certain activities associated with the implementation of the MSMP could involve significant grading operations, such as the re-contouring the Hollenbeck Field, and significant excavation activities, such as wetland and pond creation. Considering both the historic and prehistoric context of the project area, the potential exists for unearthing of previously undiscovered historical, archaeological, and/or paleontological resources as defined in Section 15064.5 of the CEQA Guidelines, therefore requiring mitigation for this contingency. In addition, the Ajuumawi Band of the Pit River Tribe, through consultation under Section 106 of the National Historic Preservation Act, identified an increased sensitivity for the presence of human remains within the project area.

As noted in the comment, the proposed Conservation Easement and MSMP do address the issue of the cultural resources, however, it is the opinion of the CPUC staff that these documents fail to provide a clear mode of implementation. Additionally, the project area includes lands that fall within the Pit 1 Hydroelectric Project. The treatment of cultural resources on these lands is covered under an existing Programmatic Agreement and associated Cultural Resource Management Plan (CRMP). The project proposes the removal of these lands from the Pit 1 Hydroelectric Project boundary, as well as protection of cultural resources under the CRMP. Protection and treatment of cultural resources under the MSMP was considered by the CPUC staff to be inadequate to comply with CEQA and the NHPA. According to Section 15064.5 (b), a project with an effect that may cause a substantial adverse change in the significance of an historic or prehistoric resource is a project that may have a significant impact on the environment. To mitigate this potentially significant impact, Mitigation Measures V.1a through V.1f on page V-18 of the draft MND would be required as part of the Conservation Easement and MSMP, thereby providing an equal level of protection to what is currently provided under the CRMP for areas within the Pit 1 Hydroelectric boundary.

Response H-3

This comment indicates that the entire land transfer is contingent on reintroducing public access to the Glenburn Dredge site and that placing the site under a conservation easement would render the site unusable. CPUC staff believe that a misunderstanding may exist regarding the proposed mitigation. As indicated on page V.7, pursuant to the requirements of CEQA and the NHPA the CPUC's contract archaeological consultant surveyed the 200 x 1000-foot inland portion of the Glenburn property. One prehistoric site was recorded as a result of this survey, a midden site with lithics and shell. The site is also likely to contain a subsurface deposit, however, subsurface testing will be necessary to verify this determination. Until such time as a determination can be made of the potential eligibility for inclusion on the National Register of Historic Places (NRHP) for this prehistoric site, it must be considered potentially eligible and protected from public access.

The conservation easement proposed as part of Mitigation Measure V.2 would only apply to the central section of the property, providing adequate protection of known sensitive resources while allowing continued access along the southern portion of the property. As such, public access to the Fall River from the Glenburn property would not be obstructed by the proposed conservation easement. The conservation easement is necessary to ensure that the integrity of the discovered site is not compromised by the reintroduction of public access. In an effort to avoid additional confusion and to better reflect the limitations and opportunities presented on the Glenburn Site, the CPUC staff has revised Mitigation Measure V.2 to provide a more detailed discussion of where the conservation easement would be applied and an explanation affirming that public access would not be compromised, as follows:

Mitigation Measure V.2: Prior to the transfer of title, the Conservation Easement shall be amended to include ~~the a~~ portion of the Glenburn Dredge Site property ~~that is bounded by the fence required by this mitigation measure and the Fall River~~ containing the newly discovered sensitive resource site. The Conservation Easement shall include language requiring that the new owner establish permanent protection of sensitive resources. The amended Conservation Easement and MSMP shall be submitted to the CPUC for review and approval prior to the transfer of title. The new-amended conservation easement including this portion of the Glenburn Dredge Site property shall restrict any uses of this area-of-the-site-portion of the parcel where the sensitive resource is present, except for the sole purpose of preserving the integrity of the sensitive resource. In addition, the Conservation Easement and MSMP shall be amended to include a requirement to reconfigure the existing fence layout at Glenburn to restrict access on and around sensitive resources. The re-establishment of public access at the southern portion of this parcel would remain feasible as proposed under the terms of this mitigation measure. Ultimately, the land area encumbered by the Conservation Easement and reconfigured fence layout would be determined according to the resource map outlined in the Cultural Resource Report, on file with the CPUC.

The Conservation Easement and MSMP, as amended, shall provide that a four strand barbed-wire fence be constructed effective to serve as an effective barrier to human and livestock access ~~and~~ shall be constructed at a location 100 feet from the boundary of the sensitive site or along the property line where it is closer than 100 feet from the boundary of the sensitive site (but not along the river). Construction of the fence shall comply with the protocols specified in Mitigation Measures V.1a-V.1f. The Conservation Easement and MSMP shall further be amended to provide for regular inspection and maintenance of the fence to ensure that it continues to be a barrier to access.

Mitigation Measure V.2 of the MND has been modified to reflect the above changes.

Response H-4

The CPUC staff acknowledge the overall benefit to the environment, specifically waterfowl habitat, as noted by the MRMA. On balance, the project will result in a number of beneficial environmental outcomes, however, it is the role of the CPUC in this instance to evaluate these consequences as well as the potential impacts which may occur in achieving these benefits, such as those to air quality and cultural resources. Under CEQA, the CPUC has the responsibility of evaluating these consequences and providing mitigation to the extent feasible. The mitigation required in the draft MND is generally of a contingent nature, meaning that it will only be triggered at a certain level of construction activity or upon discovery of a sensitive resource. While the CPUC staff acknowledge the constraints of the MSMP operating budget and the intricacies of the proposed agreement, it is required as the lead agency under CEQA to evaluate projects in this manner. In the case of this project, the mitigation provided is considered feasible and necessary in accordance with applicable local, state, and federal laws and regulations.

LETTER I

FALL RIVER-BIG VALLEY CATTLEMEN ASSOCIATION

P. O. Box 445
McArthur, California 96056

November 29, 2001

Billie Blanchard, CPUC
c/o Environmental Science Associates
700 University Avenue, Suite 130
Sacramento, California 95825

Re: Response to P.G.E.'s Shasta County Land Transfers, Draft Mitigated Negative Declaration

Dear Billie:

In regard to the Pacific Gas and Electric Shasta County Land Transfers Draft Mitigated Negative Declaration, we state that we fully support the letter to you from the McArthur Resource Management Association dated November 28, 2001.

That letter describes our position precisely and we urge you to reconsider the proposed mitigation.

Very truly yours,

FALL RIVER-BIG VALLEY CATTLEMEN ASSOCIATION

BY: 
Craig McArthur
Pit 1 Re-licensing Chairman

CM:llh

LETTER I. CRAIG MCARTHUR – FALL RIVER BIG VALLEY CATTLEMAN ASSOCIATION

Response I-1

The California Public Utilities Commission (CPUC) staff has responded to a letter from the McArthur Resource Management Association dated November 28, 2001, for which your organization provided support. The CPUC's response to each subject topic raised in the comment letter is provided under Responses H-1 through H-4.

LETTER J

LAW OFFICES OF California Indian Legal Services

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December 10, 2001

Ms. Billie Blanchard, CPUC
c/o Environmental Science Associates
700 University Avenue
Sacramento, CA 95825

Re: CPUC Application 00-05-029 & 00-05-030; Comments of the Pit River Tribe

Dear Ms. Blanchard:

The following are comments submitted on behalf of the Pit River Tribe concerning the Draft Mitigated Negative Declaration in CPUC A00-05-029 & A00-05-030 (PG&Es Shasta County Land Transfers):

1. The Pit River Tribe maintains that these proposals are clearly adverse to the public interest, and that the divestiture of these lands, under these terms, should not be approved by the CPUC. | J-1
2. A divestiture is adverse to the public interest where only one private entity has been considered as the ultimate recipient of publicly-controlled lands. There was no opportunity for interested not-for-profit entities and governmental agencies, such as the Pit River Tribe, to competitively submit proposals for the management of these lands. Rather than publishing a request for proposals, the origin of these applications occurred behind closed doors between PG&E, the California Waterfowl Association (CWA), the McArthur Swamp Regional Management Association (RMA), and the California Department of Parks and Recreations, which may have violated the Brown Act. There is no rationale provided for this closed process, and it has not been shown that the CWA or the RMA would provide better land management than the Pit River Tribe. In fact, the two potentially significant impacts listed (Air Quality and Cultural Resources) would be more significantly mitigated by donating the land to the Pit River Tribe. The alternative of transferring the land to the Pit River Tribe, which could in turn place the land in federal trust, has not been considered at all, despite the fact that the lands in question lie within the 100 mile square that constitutes the Tribe's aboriginal territory. Since the CWA has no interest in protection of cultural resources, and since the primary impact will be upon cultural resources, it is clearly the better alternative to transfer this land to the Pit River Tribe. Transferring public lands to a private entity eliminates remedies available for protection of cultural resources. Transferring the land to the Tribe preserves the alleged benefits of the proposal and eliminates the negative impacts. Because the Draft Mitigated Negative Declaration | J-2

does not consider this option at all, it is inadequate.

J-2

3. As the proposed transfer involves removal of lands from the jurisdiction of the Federal Energy Regulatory Commission (FERC), consultation with the Pit River Tribe has been wholly inadequate under §106 of the NHPA. The protocol under the McArthur Swamp Management Plan provides less protection than, and cannot be reconciled with, the Programmatic Agreement and Cultural Resource Management Plan presently governing cultural resources within the Area of Potential Effects (APE) for the affected FERC license(s). The current proposal eliminates protocols that were developed in consultation with the Tribe under §106 in favor of the McArthur Swamp Management Plan, which was not developed in consultation with the Pit River Tribe. While the deed restrictions and Conservation Easement will follow ownership, the protection provided by the PA and CRMP which govern the areas presently under the FERC license(s) will be lost. The loss of FERC's jurisdiction will clearly have a significant adverse impact on cultural resources in which the Pit River Tribe has interests.

J-3

4. Mitigation Measure V.1c calls for notification of the "Professional Archaeologist" retained by the CWA upon the discovery of the previously unidentified resources. The Mitigation Measure leaves the evaluation for California Register of Historical Resources eligibility to this Professional Archaeologist, and also leaves the decision on whether to resume any construction with this same archaeologist. This measure leaves too much control over the cultural resources in one person, who will have a conflict of interest as an employee of the CWA, and completely leaves the cultural resource representatives of the Tribe out of the decision-making process. This Mitigation Measure does not recognize that historical events and other intangible factors may make a particular site eligible for listing on either the California or National Register as a Traditional Cultural Property, and that knowledge of these historical and other intangible factors is held by the cultural resource representatives of the Tribe.

J-4

5. Mitigation Measure V.1d proposes that "Fossil remains collected during the salvage program shall be cleaned, sorted, catalogued, and then deposited in a public, non-profit institution with research interests in the materials." This mitigation measure is inappropriate and offensive with respect to Native American cultural resources, which should not be unearthed in the first instance. Where such remains are inadvertently unearthed, the Pit River Tribe's cultural resource representatives need to be contacted first for appropriate treatment. Not only does the Mitigation Measure fail to define the Tribe's cultural resource representatives as the first responders, but it also does not, in any way, guarantee repatriation of remains to the Pit River Tribe. Again, this total lack of a culturally appropriate protocol for handling remains demonstrates that the Pit River Tribe has not been adequately consulted with in this process.

J-5

6. Mitigation Measure V.1e similarly leaves the Pit River Tribe out of the decision-making process, but only states that the CWA will take recommendations on treatment of human remains from the "most likely descendant." Because it will not always be possible to determine the most likely descendant, the Mitigation Measure should provide for notification of representatives appointed by the Tribe. This will provide uniformity in notification and treatment of the remains.

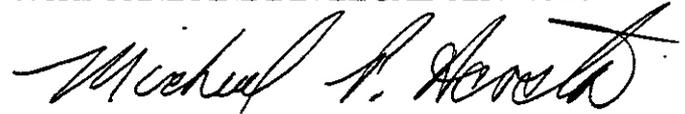
J-6

7. Mitigation Measure V.1f states that the "Native American monitor shall be a member of the Ahjumawi Tribe..." The Mitigation Measure misstates the political relationship of the Ahjumawi Band to the federally-recognized Pit River Tribe. Again, this demonstrates the lack of cultural competence in developing these mitigation measures. The Mitigation Measure needs to be revised to properly reflect the political relationship between the Ahjumawi Band and the Pit River Tribe. J-7
8. The Department of Parks and Recreation is giving up 300 acre-feet of water on the Ahjumawi Property to PG&E, without justification. Such action is clearly adverse to the public interest. (Expanded Initial Study Page 1-10). J-8
9. The measuring point for the determination of whether the project is "adverse to the public interest" must be PG&E's non-negligent management of these lands. (Expanded Initial Study Page 1-3). It is unreasonable to use PG&E's admitted negligence in maintaining 4.3 miles of levees as a measuring point for determining the relative merits of this proposal versus the no action alternative. J-9
10. There is no analysis of the long-term effect of grazing on cultural resources, water quality and endangered species in the affected area. J-10
11. It is difficult to imagine how the valuation of these lands was even remotely accurate when the government is considering an exchange of lands that is so disproportionate. This proposal is essentially a pass-through deal that leaves 7,944 acres of the total 8,135.5 acres in the hands of eleven private, for-profit ranchers (the RMA). The Expanded Initial Study admits that the RMA will "have the right to acquire fee title to the McArthur Swamp after two years," but there is no indication that the price paid by the RMA will be fair market value, nor is there any opportunity for other entities to bid. While the RMA is the major beneficiary under this proposal, the public and its agencies will suffer substantial losses. The Department of Parks and Recreation alone will experience a net loss of 358 acres of land. J-11
12. While the Declaration cites air quality as one of the two potential adverse impacts, there is insufficient detail regarding construction contemplated under the proposal. It can be inferred that maintenance of the neglected levees will involve construction, but the scope of that construction is lacking. If there are other disturbances of the surface and subsurface already planned, such plans should be detailed in the Declaration, and the air quality concerns should be addressed as to each planned disturbance. J-12
- In conclusion, the Draft Mitigated Negative Declaration provides insufficient information to determine that the proposal is not adverse to the public interest. A full Environmental Impact Report must be conducted to determine whether this privately negotiated land transfer actually holds any benefit to the public. Far from being an open public process, this proposal was largely developed behind closed doors between the PG&E, the California Waterfowl Association, and the McArthur Swamp Resource Management Association. In the end, eleven private ranchers, doing business as the RMA, will hold 97.6% of the land involved in this deal, totaling 7,944 J-13

acres, that were previously held with some state and/or federal protection. The Draft Mitigated Negative Declaration falls far short of demonstrating, or even adequately analyzing, that the terms of this pass-through will not result in a windfall for private for-profit interests, and a net loss to the public. The Pit River Tribe objects to this exclusive process, objects to the approval of the Draft Mitigated Negative Declaration, and urges that further analysis must be conducted in order to comply with CEQA (Public Resource Code §21000, et seq.)

J-13

Sincerely,
CALIFORNIA INDIAN LEGAL SERVICES



Michael P. Acosta, Esq.
Attorney for the Pit River Tribe

cc: Gene Preston, Chairman, Pit River Tribe
Michelle Berditchevsky, Environmental Coordinator, Pit River Tribe

**LETTER J. MICHAEL P. ACOSTA – CALIFORNIA INDIAN LEGAL SERVICES
(PIT RIVER TRIBE)*****Response J-1***

The Pit River Tribe maintains that Pacific Gas and Electric (PG&E) Applications 00-05-029 and 00-05-030 (Shasta County Land Transfers) are adverse to the public interest and that the divestiture of these lands should not be approved by the California Public Utilities Commission (CPUC), although no rationale for this position is provided. The proposed Mitigated Negative Declaration (proposed MND) constitutes an environmental determination required by the California Environmental Quality Act (CEQA) to determine if a proposal would result in significant environmental impacts. A judgement of public interest is not a requirement for evaluation under CEQA, however the CPUC will consider public interest during the final decision stage. Also, while not relevant for CEQA compliance, it should be noted that numerous public agencies have expressed the opinion that the proposed transfer is, indeed, in the public interest.

Response J-2

Regarding the Pit River Tribe's contention that the project is not in the "public interest," as stated in the first response, CEQA does not require an evaluation of a proposals benefit to public interest. The advisability of this project, including the public benefit, will be ultimately be considered by the CPUC throughout its decision making process. In addition, pages V-15 through V-19 of the Draft MND provide extensive mitigation related to the protection of cultural resources. While CWA may not inherently have an interest in the protection of cultural resources, it is required by law and under the terms of this proposed transfer to do so.

The second comment expressed by the Pit River Tribe further indicates that proposed transfers described in Applications 00-05-029 and 00-05-030 may violate the Brown Act. First, the Brown Act does not apply to private transactions, and only one portion of the proposed transfer is publicly controlled, that being the land PG&E would receive from the California Department of Parks and Recreation, in exchange for privately held land transferred to CDP. Pursuant to the requirements of CEQA for a mitigated negative declaration, a detailed alternatives analysis (i.e. consideration of transfer of subject land to the Pit River Tribe) is not required.

Response J-3

The Pit River Tribe correctly noted that the proposed land transfer is contingent upon the removal of certain lands from the jurisdiction of the Federal Energy Regulatory Commission (FERC) as noted on page V-10 of the draft MND. This action is under consideration by FERC as part of the re-licensing of the Pit Hydroelectric project. Consultation with affected tribes pursuant to Section 106 of the National Historic Preservation Act (NHPA) was conducted as part of this process. Additionally, because implementation of the MSMP will ultimately require an Army Corps of Engineers permit for wetland creation, the Section 106 process was carried out for this project. Activities carried out pursuant to the Section 106 process included conducting cultural resource

surveys for affected properties and the assessment of these sites, two consultation meetings with affected groups (Pit River Tribe), and provision of mitigation measures for foreseeable adverse affects (Implementing Regulations: 36 CFR. 800).

While the Pit River Tribe is correct in noting that the existing Programmatic Agreement and Cultural Resource Management Plan (CRMP) established for the Area of Potential Effects for the hydro project will no longer be in effect should the project be approved, the mitigation measures specified on page V-15 through V-19 of the draft MND were developed with the intention of duplicating or providing more stringent protocols for dealing with undiscovered resources than those included in the CRPM. It should also be noted that CPUC staff has conducted consultation and outreach on numerous occasions with the Tribe.

Response J-4

In comment number four, the Pit River Tribe indicates that Mitigation Measures V.1c would allow the California Waterfowl Association (CWA) to hire a Professional Archaeologist, potentially presenting a conflict of interest as an employee of the CWA. On page V-16 of the draft MND, Mitigation Measure V.1a requires that at least 10 days prior to the start of any project-related activity, CWA shall confirm in writing to the CPUC Mitigation Monitor that the approved designated Professional Archaeologist will be available at the start of project activities and is prepared to implement the protocol specified in the amended MSMP. It is assumed that a reputable professional consulting archaeologist will be retained for these activities and as such, the likelihood of this individual jeopardizing their credibility is unlikely. Additionally, the CPUC will have discretion over the approval of this individual and make a determination as to whether any potential for a conflict of interest truly exists.

The comment further indicates that Mitigation Measure V.1c completely leaves the cultural resource representative of the Tribe out of the decision making process. This is not correct. On page V-18 of the draft MND, Mitigation Measure V.1f requires that a Tribal Representative be present for any project related activity within 500 feet of the boundary of any known prehistoric resource and within 500 feet of any modern prehistoric stream. This measure would include the Tribe in essentially all construction activities and the decision-making processes should a resource be found.

Response J-5

Comment number five in the Tribe letter states that Mitigation Measure V.1d is inappropriate and offensive with respect to Native American resources. It is assumed that there is some misunderstanding regarding the intent of the measure, which is related to the discovery and treatment of paleontological resources only, and not archaeological resources which might include human remains. Paleontological resources are defined on pages V-5 through V-6 of the Mitigation Negative Declaration. The treatment of human remains is outlined in Mitigation Measure V.1e, which was drafted in accordance with Section 7050.5 of the California Health and Safety Code, Public Resources Code Section 5097.98 and CEQA Guidelines Section 15064.5 (e) (2).

Response J-6

Comment number six contends that Mitigation Measure V.1e will leave the Pit River Tribe out of the decision-making process with regard to the potential discovery of human remains. Mitigation Measure V.1e, as stated on page V-17 of the draft MND, complies with Section 7050.5 of the California Health and Safety Code by requiring the notification of the Shasta County coroner in the event human remains are encountered. Additionally, the measure provides that if the remains are determined to be Native American in origin, the Shasta County coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours of the find. It is the responsibility of the NAHC to determine the most likely descendant. Thus, if the NAHC determines that the most likely descendant is a member of the Pit River Tribe, then the tribe shall be notified. The second paragraph of the measure clearly indicates that the most likely descendant will be given the opportunity to make recommendations to CWA and its contractors for the means of treating discovered human remains.

Response J-7

Comment number seven provides a correction needed in Mitigation Measure V.1f to properly reflect the political relationship between the Ahjumawi Band and the Pit River Tribe. In response to this comment, Mitigation Measures V.1f has been modified as follows:

Mitigation Measure V.1f: Prior to the transfer of title, the Conservation Easement and MSMP shall be amended to require CWA to provide the opportunity for a Native American monitor, if interested, to be present on-site during project-related vegetation clearance, ground disturbance and grading, site or project mobilization, site preparation or excavation activities, implementation of erosion control measures, or the movement or parking of heavy equipment or other vehicles onto or over the project surface, within 500 feet of the boundary of known prehistoric resources and within 500 feet of the locations of modern and historic streams.

The Native American monitor shall be a member of the Ahjumawi Tribe Band of the Pit River Tribe and will serve in addition to the Professional Archaeologist. Monitoring by the cultural group representative is required within 500 feet of such sites. The amended Conservation Easement and MSMP shall be submitted to the CPUC for review and approval prior to the transfer of title.

Mitigation Measure V.2 of the MND has been modified to reflect the above changes.

Responses J-8 and J-9

Comment numbers eight and nine reiterate the Tribe's contention that the proposed land transfer would be adverse to the public interest. Please refer to response number one and two. For clarification purposes regarding item 8, it should be noted that the DPR does not currently hold any water rights to the Tule, Little Tule, or Fall River and the 300 acre-feet referred to on page V111-3 of the draft MND is related to a contractual relationship, which historically has not been exercised by DPR. The proposed agreement between PG&E and DPR reduces the contracted

amount by 300 acre-feet. The agreement between PG&E and CWA extinguishes the riparian water rights associated with the land except for 300 acre-feet to be used for wildlife habitat and management.

Item nine refers to PG&E's negligence in maintaining levees as a "measuring point." PG&E has not maintained this section of levee with the dredge due to restrictions imposed by the Army Corps of Engineers due to the presence of the federally listed endangered species, the Shasta Crayfish. Pursuant to the requirements of CEQA, the appropriate baseline for the review is the existing physical conditions.

Response J-10

Comment item number ten mentions that the Mitigated Negative Declaration fails to provide an analysis of the long-term effects of grazing on cultural resources, water quality, and endangered species. From a historical standpoint, the McArthur Swamp land base has been grazed by livestock for over fifty years. Consequently, the existing environmental condition (baseline) is the product of long term grazing practices. As part of the CEQA analysis for CPUC Applications 00-05-029 and 00-05-030, the analysis must focus on any deviations in the baseline condition resulting from the proposed land transfer, not from the natural environment that existed prior to grazing. The adoption of the MSMP and Conservation Easement would not change any land uses in the project area and, thus the existing baseline would not change. Changes that would result from the implementation of the MSMP would essentially result in a net positive effect by more efficiently grazing livestock in the area. This would occur in a smaller land area through a reconfigured fence layout. Details of the proposed management practices are described in the draft MND on pages 1-7 through 1-9 and 1-16. Additionally, the MSMP proposes a net increase in several habitat types (i.e. fresh emergent wetlands, nesting habitat, goose pasture, etc.).

Response J-11

Pursuant to the requirements of CEQA, detailed economic analyses of a proposed project are not subject to evaluation in an environmental document. (CEQA Guidelines Section 15064(d)(3)(e)) Additionally, this comment reiterates the Tribe's contention that the proposed land transfer would be adverse to the public interest. Please refer to response items number one and two.

Response J-12

Comment number twelve states that Section III, Air Quality of the draft MND should have addressed air quality concerns for each planned disturbance. For clarification, it should be noted, all air quality impacts resulting from activities proposed as part of the MSMP would stem from grading and/or excavation activities. If these activities occur, the appropriate party (either CWA or McArthur Resource Management Association) would be required to implement Mitigation Measure III.1, as stated on page III-4 of the draft MND to comply with SCAPCD Rule 3.16. For example, the levee repair operations would be required to implement Mitigation Measure III.1 in order to obtain the grading permit. This mitigation measure would apply to any activity required

to obtain a grading permit in accordance with SCAPCD Rule 3.16 (i.e. fence installation and removal, wetland creation, other grading activities, etc.).

Response J-13

The comment letter concludes by stating again that CPUC Applications 00-05-029 and 00-05-030 would be adverse to the public interest and that a full Environmental Impact Report should be prepared. As stated in response one and two, CEQA's main objective is to provide full disclosure of environmental impacts resulting from a project and ensure that potentially significant impacts are either mitigated to a level of insignificance, or at minimum, disclosed to the public for a fair evaluation of the unavoidable impacts (Pub. Res. Code secs. 21000-21004). In the case of Applications 00-05-029 and 00-05-030, after a thorough evaluation, the staff of the CPUC has determined that environmental impacts resulting from the land transfer and implementation of the amended MSMP can be reduced to a less than significant level through the adoption of the provided mitigation measures. Therefore, it is the determination of the CPUC staff that an environmental impact report is not required for this project.

LETTER K

FALL RIVER VALLEY CHAMBER OF COMMERCE

P. O. Box 475
Fall River Mills, California 96028

November 29, 2001

Billie Blanchard, CPUC
c/o Environmental Science Associates
700 University Avenue, Suite 130
Sacramento, California 95825

Re: Response to P.G.E.'s Shasta County Land Transfers, Draft Mitigated Negative Declaration

Dear Billie:

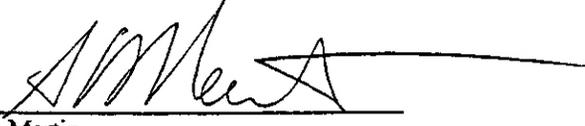
In regard to the Pacific Gas and Electric Shasta County Land Transfers Draft Mitigated Negative Declaration, we state that we fully support the letter to you from the McArthur Resource Management Association dated November 28, 2001.

That letter describes our position precisely and we urge you to reconsider the proposed mitigation.

Very truly yours,

FALL RIVER VALLEY CHAMBER OF COMMERCE

BY: _____


D. J. Martin
Pit 1 Re-licensing Chairman

DJM:llh

K-1

**LETTER K. D. J. MARTIN – FALL RIVER VALLEY CHAMBER OF
COMMERCE**

Response K-1

The California Public Utilities Commission (CPUC) staff has responded to a letter from the McArthur Resource Management Association dated November 28, 2001, for which your organization provided support. The CPUC's response to each subject topic raised in the comment letter is provided under Responses H-1 through H-4.